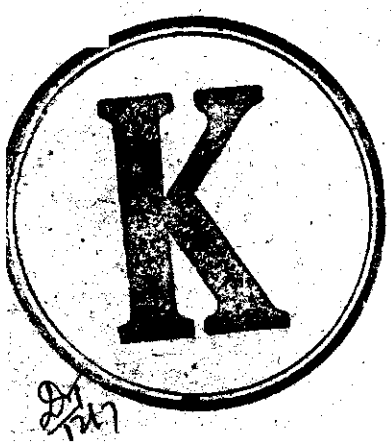

1951.

File No. B Finance/51

Legal Department

B BRANCH

Subject:—

L. A. Bill No XII of 1951

A Bill further to amend the Bombay Finance Act, 1932

Bom Act No XVI of 1951

P.B
E

File No. B Finance /51

Gen. 194 e.

745-B

Office of the R.L.A.

A revised draft Bill is sent herewith subject to the following observations :-

(1) Section 4(a) of the Bombay Finance Act defines a "consumer" to mean any person who is supplied with energy by a licensee. The word "licensee" has been defined in section 4(e) of the Act to mean any person licensed under Part II of the Indian Electricity Act, 1910 to supply energy and includes etc. Under sections 19, 35, 47 and 50 of the Electricity (Supply) Act, 1948, the Board constituted under section 5 of the said Act is authorised to supply electricity to a licensee. The expression "licensee" in this Act is also defined on almost the same lines. Section 6(1) of the Bombay Finance Act, 1932, empowers a licensee to collect and pay to the Government the proper electricity duty payable under this Part on the units of energy supplied by him to consumers. Since the Board also would be supplying energy to licensees under the Electricity (Supply) ACT, 1948, there would arise difficulty in collecting electricity duty on the energy supplied, for the reason that the Board would be supplying energy to a licensee and the licensee in his term will be supplying energy to consumers. It is therfore, necessary to amend the definition of "consumer" as defined in section 4 of the Bombay Finance Act so as to exclude a licensee to whom energy is supplied by the Board constituted under the Electricity (Supply) Act, 1948.

SM
12/7

(2) Clause 3 of the Bill.- The present entry has been numbered as clause (a) and the reduced duty proposed to be added has been embodied in clause (b).

(3) It is necessary to take power to authorise a person to enter upon a premises for the purpose of inspecting registers etc. Clause (4) has accordingly been revised. It has been numered as 73A .

(4) The provision of draft clause 5 of the Finance Department draft has been embodied in a new section 26A.

2. The subject matter of the Bill falls under entries 49, 53 and 63 in List II and entries 38 and 44 in List II in the Seventh Schedule to the Constitution of India. All the provisions of the Bill are repugnant to the provisions of the Bombay Finance Act, 1932, and the Indian Stamp Act, 1899, which are the existing laws relating to entry 38 and 44 in the Concurrent Legislative List. It is necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution.

Id/-

5/2.

Additional Secretary to Government.

U.R. to F.D. No. 117-Confl. dated the

5th February, 1951.

IMMEDIATE. No. 5173

Legal Department,

Bombay Castle (Bombay No. 1)

31st March 1951.

From

Shri J.R. Dhurandhar,
Secretary to the Government of Bombay.

To

The Secretary to the Governor of Bombay.

Subject:- The Bombay Finance (Amendment) Bill, 1951.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for being presented to His Excellency the Governor the authentic copy of the Bombay Finance (Amendment) Bill, 1951, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 15th and the 28th March 1951, respectively.

2. The subject matter of the Bill falls under entries 49, 53 and 63 in List II and entries 38 and 44 in List III in the Seventh Schedule to theConstitution of India. As the provisions of the Bill are repugnant to the provisions of the Bombay Finance Act, 1932, and the Indian Stamp Act, 1899, which are the existing laws relating to entries 38 and 44 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution.

3. I also forward herewith six copies of each of

		the items
1.	Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	Nos. 1 and 2
2.	Bill as read for the third time and passed by the Bombay Legislative Council.	
3.	Extracts from the proceedings of the Bombay Legislative Assembly dated the 15th March 1951 and of the Bombay Legislative Council dated the 28th March 1951.	and two copies

of item No. 3 of the papers noted in the margin. The Bill was not referred to a Select Committee.

4. I am to state that Government desires that the Bill should, after receiving the assent of the President be published in the Bombay Government Gazette as an Act as early as possible. It is requested that the President may be moved to give his assent to the Bill as soon as possible and to convey the assent by telegram so as to enable this Department to publish the Act as early as possible and also to communicate the date on which the assent is given.

Yours faithfully

Sd/-

Secretary to Government.

Through :

The Secretary to the Government of Bombay,

Finance Department.

MSR.

No. G. S. 915.

From

THE SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Secretary to the Bombay Legislature
Department, Council Hall,
Bombay 1.

GOVERNMENT HOUSE.
BOMBAY, 6
April 6, 1951.

Subject: The Bombay Finance (Amendment) Bill, 1951.

Sir,

With reference to the Bombay Finance (Amendment Bill, 1951, which was passed by the Bombay Legislative Assembly and the Bombay Legislative Council on March 15 and 28, 1951, respectively, I am directed to state, for the information of the Honourable the Speaker and th-e Honourable the Chairman, that as the provisions of the Bill are repugnant to the provisions of the Bombay Finance Act, 1932, and the Indian Stamp Act, 1899, which are existing laws relating to entries 38 and 44 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution of India. His Excellency the Governor has accordingly been pleased, under article 200 of the Constitution of the President.

Yours faithfully,

Sd/- L. N. Kadkarni.

Secretary to the Governor of Bombay.

.....

No. G.S. - 916.
Office of the Secretary to the Governor,
Government House, Bombay 6,
April 6, 1951.

Copy forwarded with compliments for information to:-

(1) The Secretary to Government, Legal Department, with reference to his letter No. 5173, dated March 31, 1951; Secretary to Governor

No. G.S.- 1079.

From

THE SECRETARY TO THE GOVERNOR OF BOMBAY.

To

The Secretary to Government,
Legal Department.

GOVERNMENT HOUSE,
BOMBAY, April 21, 1951.

Subject : The Bombay Finance (Amendment) Bill, 1951.

Sir,

With reference to the correspondence to ending with your letter No. 6152, dated April 16, 1951, I am directed to say that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Bombay Finance (Amendment) Bill, 1951, on April 18, 1951.

Yours faithfully,

Sd/-
for Secretary to the Governor.

MSR.
6/7.

ACTS.

Publication of the
Bombay Finance (Amendment) Act, 1951.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No. 6540
Bombay Castle, 24th April 1951.

Letter to the Secretary to the Governor, No. 5173, dated 31st March 1951.

Letter from the Secretary to the Governor, No. G.S. 1079, dated the 21st April 1951.

"With reference to the correspondence ending with your letter No. 6152, dated April 16, 195 I am directed to say that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Bombay Finance (Amendment) Bill, 1951, on April 18, 1951."

RESOLUTION: - The law should be published as Bombay Act No. XVI of 1951, in the Bombay Government Gazette dated the 24th April 1951.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari Script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Finance Department.

By order of the Governor of Bombay,

Sd/- S.L. Chaudhari,

Deputy Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department and 10 copies for the use of the Finance Department),
The Finance Department,
* The Oriental Translator to Government,
The Bombay Legislature Department,
The Director of Publicity, Bombay
The Enquirty Officer for the Secretariat, Bombay. ---- -----

with copy of Act

* With four extra copies of the Act

No. G.S.- 1120.

FROM

THE SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Secretary to Government,
Legal Department.

GOVERNMENT HOUSE,

BOMBAY, April 25, 1951.

Subject: The Bombay Finance (Amendment) Bill, 1951.

Sir,

In continuation of my letter No. G.S.-1079 dated April 21, 1951, I am directed to forward herewith the authentic copy of the Bombay Finance (Amendment) Bill, 1951, with the President's assent signified thereon.

Yours faithfully,

Sd/-

for Secretary to the Governor.

MSR.
11/7.

L. A. BILL No. XII OF 1951.

A Bill to amend the Bombay Finance Act, 1932.

(As read for the third time and passed by the Legislative Assembly on the 15th March 1951.)

Bom. II of 1932.

WHEREAS it is expedient to amend the Bombay Finance Act, 1932, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Finance (Amendment) Act, 1951.

(*2*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of section 4 of Bom. II of 1932.

Bom. II of 1932.

2. In section 4 of the Bombay Finance Act, 1932 (hereinafter called the said Act), —

(*1*) in clause (*a*), after the words "by a licensee" the words, brackets and figures "but does not include a licensee to whom energy is supplied by the State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948;" shall be inserted;

LIV of 1948.

(*2*) in clause (*c*), for the words and figures "section 28 of that Act" the words, brackets and figures "section 28 of that Act, the State Government when it is engaged in a business of supplying energy and the State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948;" shall be substituted.

LIV of 1948.

Amendment of First Schedule to Part II of Bom. II of 1932.

3. In the First Schedule to Part II of the said Act,—

(*1*) the entry under the heading "*For any other purpose*" shall be numbered as clause (*a*) and in the said clause, after the words "lights and fans" the words, brackets and letter "not falling under clause (*b*)" shall be added;

(*2*) after clause (*a*) as so numbered, the following clause shall be inserted, namely :—

"(*b*) For every five units of energy or fraction thereof consumed for electrolytic process or electric furnace by any industrial undertaking, subject however to the conditions that the Inspecting Officer appointed under section 8 is satisfied that the cost of the energy consumed is not less than 30 per cent. of the total cost of manufacture incurred by such industrial undertaking and that separate meters or sub-meters are installed for indicating such consumption separately . . . . ¼ anna."

Amendment of section 15 of Bom. II of 1932.

4. In section 15 of the said Act, after sub-section (*4A*), the following shall be inserted, namely :—

"(*4B*) After section 73, the following new section shall be inserted, namely :—

Collector's power to authorize officer to enter premises and inspect certain documents.

"73A. The Collector may, where he has reason to believe that all or any of the instruments specified in Articles 5, 20A, 20B, 20C, 20D, 20E and 43 of Schedule I have not been charged at all or incorrectly charged with duty leviable under this Act, authorise in writing any officer to enter upon any premises where he has reason to believe that any registers, books, records, papers, documents or proceedings relating to or in connection with any such instrument are kept and to inspect them and to take such notes and extracts as such officer deems necessary. Every person having in his custody or maintaining such registers, books, records, papers, documents or proceedings shall at all reasonable times permit the officer authorised by the Collector to inspect them and take the notes and extracts as he may deem necessary."

Insertion of new section 26A in Bom. II of 1932.

5. After section 26 of the said Act, the following new section shall be added, namely :—

Apportionment of responsibility for Urban Immovable Property tax when premises are let and rateable value exceeds the amount of rent.

"26A. (*1*) If any premises assessed to Urban Immovable Property tax are let and their rateable value exceeds the amount of rent payable in respect thereof to the person from whom, under the provisions of sub-sections (*1*) to (*4*) of section 26, the said tax is leviable, the said person shall be entitled to receive from his tenant the difference between the amount of the Urban Immovable Property tax levied from him, and the amount which would be leviable from him if the said tax were calculated on the amount of rent payable to him.

(*2*) If the premises are sub-let and their rateable value exceeds the amount of rent payable in respect thereof to the tenant by his sub-tenant, or the amount of rent payable in respect thereof to a sub-tenant by the person holding under him, the said tenant shall be entitled to receive from his sub-tenant or the said sub-tenant shall be entitled to receive from the person holding under him, as the case may be, the difference between any sum recovered under sub-section (*1*) from such tenant or sub-tenant and the amount of Urban Immovable Property tax which would be leviable in respect of the said premises if the rateable value thereof were equal to the difference between the amount of rent which such tenant or sub-tenant receives and the amount of rent which he pays.

(*3*) Any person entitled to receive any sum under sub-sections (*1*) and (*2*) shall have, for the recovery thereof, the same rights and remedies as if such sum were rent payable to him by the person from whom he is entitled to receive the same."

STATEMENT OF OBJECTS AND REASONS.

A doubt has been raised whether Government when supplying electrical energy from a Government electricity undertaking is liable to pay duty under the Bombay Finance Act, 1932, when there is no specific provision to that effect in that Act. To remove the doubt, the Act is proposed to be amended to provide for the levy of duty on Government electricity undertakings. The Bill further provides for the levy of a lower duty where the cost of electrical energy used in electrolytic process exceeds 30 per cent. of the total production costs.

2. It also provides for an amendment of the Indian Stamp Act so as to enable any officer authorised by the Collector to inspect the books of accounts and other relevant documents with a view to ensure that the stamp duties levied by Government on certain instruments like agreements, brokers' notes and clearance lists are properly paid by the parties concerned. Such a provision is deemed necessary as Government believes that there is considerable evasion of stamp duty in the forward markets.

3. Lastly, the Bill seeks to insert a new section 26A in the Bombay Finance Act specifying the responsibility of parties concerned to pay the urban immoveable property tax, on the lines of section 147 of the Bombay Municipal Corporation Act. This section enables the landlords to recover the difference in the property tax from their tenants where the rateable values of premises are increased either by sub-letting or by improvements carried out by the tenants. As the urban immoveable property tax is collected with the property tax, uniformity in the procedure of collection is deemed necessary.

Notes on Clauses.

Clause 2.—This provides for the levy of duty on energy supplied by Government electricity undertakings.

Clause 3.—Provides for the levy of a lower duty on electric energy used in electrolytic process in cases where the cost of energy is not less than 30 per cent. of the production costs.

Clause 4.—This incorporates a new section in the Indian Stamp Act to enable any officer authorised by the Collector to inspect any books, documents etc. of parties who are suspected of evading stamp duties relating to certain instruments like agreements, brokers' notes and clearance lists.

Clause 5.—Incorporates the provisions on the lines of section 147 of the Bombay Municipal Corporation Act with a view to ensure uniformity of procedure in the matter of collecting the property tax levied by the municipalities and the urban immoveable property tax levied by Government.

Dated the 22nd February 1951. VAIKUNTH L. MEHTA.

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XII OF 1951.]

(As read for the third time and passed by the Legislative Assembly on the 15th March 1951.)

A Bill to amend the Bombay Finance Act, 1932.

[Shri VAIKUNTH L. MEHTA, M.L.A.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

REGISTERED No. B-1

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

TUESDAY, 24TH APRIL 1951.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Bombay Legislature and Ordinances promulgated and Regulations made by the Governor.

CONTENTS.

BOMBAY ACT No. XVI OF 1951—An Act to amend the Bombay Finance Act, 1932 .. PAGES 59-60

The following Act of the Bombay Legislature having been assented to by the President on the 18th April 1951 is hereby published for general information.

J. R. DHURANDHAR,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XVI OF 1951.

(First published, after having received the assent of the President, in the "Bombay Government Gazette" on the 24th April 1951.)

An Act to amend the Bombay Finance Act, 1932.

Bom. II of 1932.

WHEREAS it is expedient to amend the Bombay Finance Act, 1932, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Finance (Amendment) Act, 1951.

(*2*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of section 4 of Bom. II of 1932.

2. In section 4 of the Bombay Finance Act, 1932 (hereinafter called the said Act), —

(*1*) in clause (*a*), after the words "by a licensee" the words, brackets and figures "but does not include a licensee to whom energy is supplied by the State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948;" shall be inserted;

LIV of 1948.

(*2*) in clause (*c*), for the words and figures "section 28 of that Act" the words, brackets and figures "section 28 of that Act, the State Government when it is engaged in a business of supplying energy and the State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948;" shall be substituted.

LIV of 1948.

Amendment of First Schedule to Part II of Bom. II of 1932.

3. In the First Schedule to Part II of the said Act,—

(*1*) the entry under the heading "*For any other purpose*" shall be numbered as clause (*a*) and in the said clause, after the words "lights and fans" the words, brackets and letter "not falling under clause (*b*)" shall be added;

(*2*) after clause (*a*) as so numbered, the following clause shall be inserted; namely :—

"(*b*) For every five units of energy or fraction thereof consumed for electrolytic process or electric furnace by any industrial undertaking, subject however to the conditions that the Inspecting Officer appointed under section 8 is satisfied that the cost of the energy consumed is not less than 30 per cent. of the total cost of manufacture incurred by such industrial undertaking and that separate meters or sub-meters are installed for indicating such consumption separately .... ¼ anna."

Amendment of section 15 of Bom. II of 1932.

4. In section 15 of the said Act, after sub-section (*4A*), the following shall be inserted, namely :—

"(*4B*) After section 73, the following new section shall be inserted, namely :—

Collector's power to authorize officer to enter premises and inspect certain documents.

"73A. The Collector may, where he has reason to believe that all or any of the instruments specified in Articles 5, 20A, 20B, 20C, 20D, 20E and 43 of Schedule I have not been charged at all or incorrectly charged with duty leviable under this Act, authorise in writing any officer to enter upon any premises where he has reason to believe that any registers, books, records, papers, documents or proceedings relating to or in connection with any such instrument are kept and to inspect them and to take such notes and extracts as such officer deems necessary. Every person having in his custody or maintaining such registers, books, records, papers, documents or proceedings shall at all reasonable times permit the officer authorised by the Collector to inspect them and take the notes and extracts as he may deem necessary."

Insertion of new section 26A in Bom. II of 1932.

5. After section 26 of the said Act, the following new section shall be added, namely :—

Apportionment of responsibility for Urban Immovable Property tax when premises are let and rateable value exceeds the amount of rent.

"26A. (*1*) If any premises assessed to Urban Immovable Property tax are let and their rateable value exceeds the amount of rent payable in respect thereof to the person from whom, under the provisions of sub-sections (*1*) to (*4*) of section 26, the said tax is leviable, the said person shall be entitled to receive from his tenant the difference between the amount of the Urban Immovable Property tax levied from him, and the amount which would be leviable from him if the said tax were calculated on the amount of rent payable to him.

(*2*) If the premises are sub-let and their rateable value exceeds the amount of rent payable in respect thereof to the tenant by his sub-tenant, or the amount of rent payable in respect thereof to a sub-tenant by the person holding under him, the said tenant shall be entitled to receive from his sub-tenant or the said sub-tenant shall be entitled to receive from the person holding under him, as the case may be, the difference between any sum recovered under sub-section (*1*) from such tenant or sub-tenant and the amount of Urban Immovable Property tax which would be leviable in respect of the said premises if the rateable value thereof were equal to the difference between the amount of rent which such tenant or sub-tenant receives and the amount of rent which he pays.

(*3*) Any person entitled to receive any sum under sub-sections (*1*) and (*2*) shall have, for the recovery thereof, the same rights and remedies as if such sum were rent payable to him by the person from whom he is entitled to receive the same."

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.